

unconstitutional. The case, *Bayard v. Singleton*, centered on property that had once belonged to Samuel Cornell, a wealthy merchant of New Bern. Cornell had traveled to England in 1775 and upon his return two years later was denied permission to disembark at New Bern unless he, as required by law, swore allegiance to the state. Cornell, a Loyalist, refused. Understanding the ramifications of his actions, he attempted to prevent confiscation of his substantial assets by deeding his property to his wife and daughters before sailing to New York. Despite this precaution, his property was seized, and part of it was eventually sold to Spyers Singleton, a New Bern merchant and member of the General Assembly. In 1784, members of the Cornell family attempted to regain the family property by filing a series of lawsuits against the purchasers. One of the suits was filed by Cornell's daughter Elizabeth Cornell Bayard against Spyers Singleton.⁴⁰

The 1785 statute required the superior court, upon a motion by the defense, to dismiss cases such as Bayard's and to require plaintiffs to pay court costs.⁴¹ Accordingly, in May 1786 Singleton's lawyers asked the court to reject Bayard's claim. The judges, rather than adhere to the law, refused to issue a ruling, and the case was continued for two court terms. Apparently the judges were hoping that the assembly would modify the law so that a confrontation between the court and legislature could be avoided. The General Assembly did make some changes, but they were insufficient to alter the situation before the court.⁴²

Iredell's interest in these developments stemmed not only from his own advocacy of judicial review and his disapproval of the ill-treatment of Loyalists, but also from an earlier connection with the Cornell property. Ironically, Iredell's initial involvement with the Cornells was as an advocate of confiscation. In 1779, when Iredell was state attorney general, he acted against his own beliefs and successfully argued that the Cornell holdings could be taken by the state, contrary to the assertions of one of the occupants of the property, Spyers Singleton.⁴³

When Bayard sued in 1784, Singleton, who had since purchased the property, hired a battery of North Carolina's most accomplished lawyers, including William Hooper, Archibald Maclaine, and James Iredell. Singleton did not intend for all of these legal notables to actually represent

⁴⁰Whichard, *Justice James Iredell*, 10; Waldrup, "James Iredell," 258, 262, 272; Blackwell P. Robinson, *William R. Davie* (Chapel Hill: University of North Carolina Press, 1957), 166.

⁴¹Clark, *State Records*, 24:731.

⁴²Waldrup, "James Iredell," 272-274.

⁴³Waldrup, "James Iredell," 261.